

Date: February 23, 2001

To: All DWSE Staff

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Consumer Information Team

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Subject: Water - Procedure - Miscellaneous - Consumer Confidence Report
Implementation Instructions

I. General

VDH's Consumer Confidence Reports regulations, 12 VAC 5-590-545, became effective on August 3, 2000. The regulations were adopted without public hearings through a streamlined process under the APA after consultation with and concurrence by the Attorney General's Office. The regulations are essentially identical to the federal CCR rule.

Governor Gilmore has declined the opportunity to grant a CCR distribution waiver for small waterworks (under 10,000 population), as allowed by the federal rule; therefore, the state regulations do not contain any mention of a waiver. This is the significant difference between the state and federal versions of the rule.

II. Timetable

A timetable for tasks to be conducted by the field office staff is presented below. These are intended to represent the minimum effort needed to effectively administer the regulations under the current drinking water program constraints.

Completion Date	Task
March 1	Send reminder letter to all community waterworks describing the distribution deadline and the certification statement deadline.
June 1	(Optional) Issue additional reminder (letter or phone call) to community waterworks that did not yet submit a draft or final CCR.
June 15	Review draft CCRs and inform owners of recommended changes.
September 1	Review final CCRs to determine major violations and issue NOV's for major violations.
September 1	(Optional) Issue reminder (letter or phone call) to community waterworks that did not yet submit the certification statement.
November 1	Record all major violations and return-to-compliance in SDWIS.
December 31	Send comment letter to community waterworks listing minor errors and omissions.

III. Major Procedural Points

- A. **DWSE preparation of CCRs** for waterworks owners should be phased out. The field office staff is expected to provide appropriate technical assistance to waterworks owners, especially new owners, so they fully understand the CCR requirements and are capable of preparing their own CCRs. Only in circumstances where the field staff determine that their preparation is the more efficient alternatives should DWSE staff consider preparing draft CCRs for owners. This would require the concurrence of the Field Office Director.
- B. **Technical assistance** shall include any or all of the following: preparing and mailing reminder letters; answering questions and explaining CCR requirements to the public and to waterworks owners and operators; interpreting and consolidating water quality data; reviewing and commenting on draft CCRs; and reviewing and commenting on final CCRs.
- C. For **data tracking** all final CCR distribution dates and certification dates must be entered into R&R on an on-going basis. Draft CCR submittals should be tracked, either in R&R or other appropriate database, to facilitate monthly time and activity reporting.
- D. **Compliance/enforcement** shall consist of issuing NOVs to waterworks owners for major violations and entering the appropriate data into SDWIS. A major violation is defined as: (i) CCR not distributed by the deadline; (ii) CCR is grossly inadequate; (iii) CCR is significantly deficient; or (iv) CCR contains falsified information. Examples are given below. The federal rule also requires state reporting of minor violations in SDWIS; however, DWSE considers that to be extremely low priority and is not authorizing any staff resources to prepare minor violation NOVs or enter minor violation data into SDWIS.
- E. **Time and activity accounting** shall reflect that (i) all time directly related to NOV issuance for major CCR violations and compliance data entry into SDWIS is recorded as compliance, (ii) draft and final CCRs are recorded as SDWA monitoring reports, and (iii) all other CCR time is recorded as technical assistance. Each draft CCR (counted only once per waterworks even if there are multiple drafts) and final CCR shall be counted as separate reports.
- F. The DWSE field offices must **maintain copies of CCRs** for a minimum of three (3) years. Field offices must make every reasonable effort to accommodate requests from the public in accordance with the provisions of the Freedom of Information Act and good common sense.

- G. In addition to telling owners the required deadlines for CCR distribution and certification submittal, it is recommended that the **March reminder letter** request submittal of (i) draft CCRs at least 30 days prior to the deadline to allow time for review and (ii) CCR certification at the same time as the final CCR is submitted.
- H. EPA did not require VDH to develop specific guidelines on **state discretionary items** listed below. The Field Director will make decisions regarding these items, provide written documentation of his decision in the file, and decide when to refer the issue to DWSE for decisions in unusual cases.
1. Section C7a allows the waterworks owner to use his own explanation of contaminants which may reasonably be expected to be found in drinking water in lieu of the required language when approved by the Commissioner. PWS owners should be strongly encouraged to use the EPA-supplied language.
 2. Section C7c specifies that the Commissioner determines which communities have a large proportion of non-English speaking residents. No "large proportion" criteria have been developed to determine that such communities exist, but some people have indicated that the "large proportion" threshold should be 10%. DWSE will rely exclusively on the waterworks owner to determine the need for using foreign languages, except in those rare cases where it is completely obvious that a large proportion exists.
 3. Sections D2, D3, and D4 allow the waterworks owner to use his own educational statements in lieu of the required language for arsenic, nitrate, and lead when approved by the Commissioner. PWS owners should be strongly encouraged to use the EPA-supplied language.
 4. Section E4 requires the owner to deliver the CCR to other agencies specified by the Commissioner. At this time no other agencies have been identified.

IV. Examples of Major Violations

- A. CCR distribution not started by July 1.
- B. CCR distribution started by July 1, but full distribution not completed within a reasonable time. (Since the regulations imply the entire distribution should be completed by July 1, we should not condone any completion date more than 30 days past the deadline.)

- C. CCR contains multiple minor errors or omissions that significantly diminish the report's effectiveness. (For example, omitting one contaminant from the table of detected contaminants may not be considered significant, even if accompanied by several minor errors in other parts of the report, but omitting two or more contaminants from the table probably would be significant enough to be called a major violation.)
- D. CCR omits all required information relating to an MCL or TT violation, even if the public notification requirements have been or are being met. (Complete omission of a monitoring/reporting violation would not be considered a major violation even if proper public notification had not been done.)
- E. CCR contains falsified information. (Some judgement will be necessary to differentiate between deliberate falsification and an unintended error or errors.)
- F. Failure to send DWSE a copy of the final CCR by the July 1 deadline will not be considered a major violation provided the CCR was distributed (distribution to customers and good faith effort to reach other consumers) as required.

V. Resource Needs

- A. Assume 1500 community waterworks statewide.
- B. Assume 2.0 hours of technical assistance per waterworks (state preparation of CCRs is not included).
- C. Assume 10% of waterworks have major violations and 1.0 hours per NOV.
- D. Assume time required to handle new community waterworks each year is offset by improvement in staff efficiency and continued year-to-year preparation of CCRs by existing waterworks.
- E. Total hours per year = $(1500)(2.0) + (0.10)(1500)(1.0) = 3000 + 150 = 3150$